

# State of Wisconsin



2011 Assembly Bill 69

Date of enactment: **December 7, 2011**  
Date of publication\*: **December 20, 2011**

## 2011 WISCONSIN ACT 94

AN ACT *to create* 895.62 and 939.48 (1m) of the statutes; **relating to:** self-defense.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 895.62 of the statutes is created to read:

**895.62 Use of force in response to unlawful and forcible entry into a dwelling, motor vehicle, or place of business; civil liability immunity.** (1) In this section:

(a) "Actor" means a person who uses force that is intended or likely to cause death or great bodily harm to another person.

(b) "Dwelling" has the meaning given in s. 895.07 (1) (h).

(c) "Place of business" means a business that the actor owns or operates.

(2) Except as provided in sub. (4), an actor is immune from civil liability arising out of his or her use of force that is intended or likely to cause death or great bodily harm if the actor reasonably believed that the force was necessary to prevent imminent death or bodily harm to himself or herself or to another person and either of the following applies:

(a) The person against whom the force was used was in the process of unlawfully and forcibly entering the actor's dwelling, motor vehicle, or place of business, the actor was on his or her property or present in the dwelling, motor vehicle, or place of business, and the actor knew or had reason to believe that an unlawful and forcible entry was occurring.

(b) The person against whom the force was used was in the actor's dwelling, motor vehicle, or place of business after unlawfully and forcibly entering it, the actor was present in the dwelling, motor vehicle, or place of business, and the actor knew or had reason to believe that the person had unlawfully and forcibly entered the dwelling, motor vehicle, or place of business.

(3) If sub. (2) (a) or (b) applies, the finder of fact may not consider whether the actor had an opportunity to flee or retreat before he or she used force and the actor is presumed to have reasonably believed that the force was necessary to prevent imminent death or bodily harm to himself or herself or to another person.

(4) The presumption described in sub. (3) does not apply if any of the following are true:

(a) The actor was engaged in a criminal activity or was using his or her dwelling, motor vehicle, or place of business to further a criminal activity at the time he or she used the force described in sub. (2).

(b) The person against whom the force was used was a public safety worker, as defined in s. 941.375 (1) (b), who entered or attempted to enter the actor's dwelling, motor vehicle, or place of business in the performance of his or her official duties. This paragraph applies only if at least one of the following applies:

1. The public safety worker identified himself or herself to the actor before the force described in sub. (2) was used by the actor.

\* Section 991.11, WISCONSIN STATUTES 2009-10: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

2. The actor knew or reasonably should have known that the person entering or attempting to enter his or her dwelling, motor vehicle, or place of business was a public safety worker.

(5) In any civil action, if a court finds that a person is immune from civil liability under sub. (2), the court shall award the person reasonable attorney fees, costs, compensation for loss of income, and other costs of the litigation reasonably incurred by the person.

(6) Nothing in this section may be construed to limit or impair any defense to civil or criminal liability otherwise available.

**SECTION 2.** 939.48 (1m) of the statutes is created to read:

939.48 (1m) (a) In this subsection:

1. "Dwelling" has the meaning given in s. 895.07 (1) (h).

2. "Place of business" means a business that the actor owns or operates.

(ar) If an actor intentionally used force that was intended or likely to cause death or great bodily harm, the court may not consider whether the actor had an opportunity to flee or retreat before he or she used force and shall presume that the actor reasonably believed that the force was necessary to prevent imminent death or great bodily harm to himself or herself if the actor makes such a claim under sub. (1) and either of the following applies:

1. The person against whom the force was used was in the process of unlawfully and forcibly entering the actor's dwelling, motor vehicle, or place of business, the actor was present in the dwelling, motor vehicle, or place

of business, and the actor knew or reasonably believed that an unlawful and forcible entry was occurring.

2. The person against whom the force was used was in the actor's dwelling, motor vehicle, or place of business after unlawfully and forcibly entering it, the actor was present in the dwelling, motor vehicle, or place of business, and the actor knew or reasonably believed that the person had unlawfully and forcibly entered the dwelling, motor vehicle, or place of business.

(b) The presumption described in par. (ar) does not apply if any of the following applies:

1. The actor was engaged in a criminal activity or was using his or her dwelling, motor vehicle, or place of business to further a criminal activity at the time.

2. The person against whom the force was used was a public safety worker, as defined in s. 941.375 (1) (b), who entered or attempted to enter the actor's dwelling, motor vehicle, or place of business in the performance of his or her official duties. This subdivision applies only if at least one of the following applies:

a. The public safety worker identified himself or herself to the actor before the force described in par. (ar) was used by the actor.

b. The actor knew or reasonably should have known that the person entering or attempting to enter his or her dwelling, motor vehicle, or place of business was a public safety worker.

**SECTION 3. Initial applicability.**

(1) This act first applies to a use of force that occurs on the effective date of this subsection.

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